

SENATE BILL No. 220

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-21-13.5.

Synopsis: Property owners associations and flag displays. Provides that a property owners association may not adopt or enforce a covenant, bylaw, or other rule that prohibits or restricts a member of the property owners association from displaying the flag of the United States, including displaying the flag of the United States from a flagpole. Provides certain exceptions concerning the regulation of displayed flags.

Effective: July 1, 2015.

Boots

January 6, 2015, read first time and referred to Committee on Civil Law.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 220

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-21-13.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]:
4 **Chapter 13.5. Display of the Flag of the United States on**
5 **Property Subject to Regulation by a Property Owners Association**
6 **Sec. 1. This chapter applies to all dedicatory instruments**
7 **established, adopted, enacted, or enforced before, on, or after July**
8 **1, 2015.**
9 **Sec. 2. (a) As used in this chapter, "dedicatory instrument"**
10 **means each document governing the establishment, maintenance,**
11 **or operation of a property owners association.**
12 **(b) The term includes documents that subject real property to:**
13 **(1) restrictive covenants or similar instruments governing the**
14 **administration or operation of a property owners association;**
15 **(2) properly adopted bylaws, rules, and regulations of a**
16 **property owners association; and**



(3) all lawful amendments to covenants, bylaws, rules, or regulations of a property owners association.

Sec. 3. As used in this chapter, "front yard" means a yard within a parcel of real property that has a front building setback line of at least fifteen (15) feet that extends the full width of the parcel between the front lot line and the front building setback line.

Sec. 4. As used in this chapter, "property owners association" means an incorporated or unincorporated:

- (1) homeowners association;
- (2) condominium association;
- (3) cooperative association;
- (4) residential subdivision association; or
- (5) similar property owners association;

owned by or whose members consist primarily of the owners of the property covered by a dedicatory instrument and through which the owners, or a board of directors or similar governing body, manage or regulate the property owners association.

Sec. 5. Except as provided in section 6 of this chapter, a property owners association may not adopt or enforce a dedicatory instrument provision that prohibits or restricts, or has the effect of prohibiting or restricting, a member of the property owners association from displaying the flag of the United States, including displaying the flag of the United States from a flagpole.

Sec. 6. A property owners association may adopt or enforce reasonable dedicatory instrument provisions that do any of the following:

- (1) Require:
 - (A) that the flag of the United States must be displayed in accordance with:
 - (i) 4 U.S.C. 5 through 4 U.S.C. 10; and
 - (ii) the federal Freedom to Display the American Flag Act of 2005 (120 Stat. 572);
 - (B) that a flagpole attached to a dwelling or a freestanding flagpole:
 - (i) must be constructed of permanent, durable materials; and
 - (ii) must have a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;
 - (C) that the display of a flag, or the location and construction of the supporting flagpole, must comply with applicable zoning ordinances, easements, and setbacks of



- 1 record; and
- 2 (D) that:
 - 3 (i) a displayed flag and the flagpole on which it is flown
 - 4 must be maintained in good condition; and
 - 5 (ii) any deteriorated flag or deteriorated or structurally
 - 6 unsafe flagpole must be repaired, replaced, or removed.
- 7 (2) Regulate the size, number, and location of flagpoles on
- 8 which flags are displayed, except that the regulation may not
- 9 prevent the installation of at least one (1) flagpole per
- 10 property that:
 - 11 (A) is:
 - 12 (i) located in the front yard of the property;
 - 13 (ii) not more than twenty (20) feet in height; and
 - 14 (iii) subject to applicable zoning ordinances, easements,
 - 15 and setbacks of record; or
 - 16 (B) is attached to any part of a residential structure:
 - 17 (i) owned by the member; and
 - 18 (ii) not maintained by the property owners association.
- 19 (3) Govern the size of a displayed flag.
- 20 (4) Regulate the:
 - 21 (A) size;
 - 22 (B) location; and
 - 23 (C) intensity;
- 24 of any lights used to illuminate a displayed flag.
- 25 (5) Impose reasonable restrictions to abate noise caused by an
- 26 external halyard of a flagpole.
- 27 (6) Prohibit a member from locating a displayed flag or
- 28 flagpole on property that is:
 - 29 (A) owned or maintained by the property owners
 - 30 association; or
 - 31 (B) owned in common by the members of the property
 - 32 owners association.

